Canadian Artists and Producers Professional Relations Tribunal

2009-2010

Departmental Performance Report

The Honourable Lisa Raitt
Minister of Labour

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Chairperson's Message

I am pleased to present to Parliament and Canadians the *Departmental Performance Report* of the Canadian Artists and Producers Professional Relations Tribunal for the fiscal year ending March 31, 2010.

The Canadian Artists and Producers Professional Relations Tribunal administers a collective bargaining regime for professional self-employed artists and producers in federal jurisdiction. Under Part II of the *Status of the Artist Act*, the Tribunal defines sectors of artistic and cultural activity for collective bargaining, certifies artists' associations to represent artists working in those sectors, and deals with complaints of unfair labour practices and other matters brought forward by parties under the *Act*.

Parliament passed the *Status of the Artist Act* in 1992 as part of a commitment to recognize and stimulate the contribution of the arts to the cultural, social, economic and political enrichment of the country. The *Act* reflects the recognition that constructive professional relations in the arts and culture sector are an important element of a vibrant Canadian culture and heritage.

Since its inception, the Tribunal has defined 26 sectors of artistic activity and certified 24 artists' associations to represent them. Certified artists' associations have concluded nearly 170 scale agreements with producers, including government producers and broadcasting undertaking, since their certification. Nine percent of these are the first agreements that the parties have ever concluded.

The Tribunal has a single strategic outcome: constructive professional relations between self-employed artists and producers under its jurisdiction. In working towards its strategic outcome, the Tribunal in the past focused most of its work on certification. Most sectors are now defined, and artists' associations are certified to represent them. The work of the Tribunal is now more related to complaints and determinations, changes in the definition of sectors and in representation, and assisting parties in the bargaining process.

In addition, the Tribunal now places greater emphasis on outreach to its stakeholders and on research in support of the collective bargaining process. The Tribunal needs to ensure that the *Act* is widely known and well understood, and that its services are understood and known by the stakeholder community. It focuses much of its effort on fully informing and assisting artists, artists' associations, and producers of their rights and responsibilities under the *Act* and of the services that the Tribunal can make available to them.

The Tribunal's outreach role, and the careful disposition of matters brought before it, help to promote productive professional relations in the cultural sector, and contribute to a thriving Canadian culture.

Elaine Kierans
Acting Chairperson and Chief Executive Officer
August 31, 2010

SECTION I: OVERVIEW OF THE CANADIAN ARTISTS AND PRODUCERS PROFESSIONAL RELATIONS TRIBUNAL

Raison d'être

Parliament created the Canadian Artists and Producers Professional Relations Tribunal to administer the labour relations provisions of the *Status of the Artist Act* for self-employed artists and producers in federal jurisdiction. The Tribunal's fulfilment of its mandate contributes to the development of constructive labour relations between artists and producers.

Responsibilities

The Canadian Artists and Producers Professional Relations Tribunal is an independent, quasi-judicial agency that administers Part II of the *Status of the Artist Act*, which governs professional relations between self-employed artists and federally regulated producers. The Tribunal reports to Parliament through the Minister of Labour. The Minister of Canadian Heritage also has responsibilities pursuant to Part II of the *Act*.

The Tribunal is one of four federal agencies that regulate labour relations. The other three are the Canada Industrial Relations Board, which deals with labour relations between private sector employers in federal jurisdiction and their employees, the Public Service Labour Relations Board, which deals with labour relations between federal government institutions and their employees, and the Public Service Staffing Tribunal, which deals with complaints from federal public service employees related to internal appointments and lay-offs.

The Tribunal's jurisdiction over producers is set out in the *Status of the Artist Act*, and covers federal government institutions, including government departments and the majority of federal agencies and Crown corporations (such as the National Film Board and the national museums), and broadcasting undertakings under the jurisdiction of the Canadian Radio-television and Telecommunications Commission. Roughly 1,200 broadcasters and 165 federal government institutions come under the *Act*.

The Tribunal's jurisdiction over self-employed artists is also set out in the *Status of the Artist Act*, and includes artists covered by the *Copyright Act* (such as writers, photographers, and music composers), performers (such as actors, musicians, and singers), directors, and other professionals who contribute to the creation of a production, such as those doing camera work, lighting and costume design. Some 100,000 artists in Canada fall within the ambit of the *Act*.

The Tribunal has the following statutory responsibilities:

- To define the sectors of cultural activity suitable for collective bargaining between artists' associations and producers,
- To certify artists' associations to represent self-employed artists working in these sectors, and
- To deal with complaints of unfair labour practices and other matters brought forward by artists, artists' associations, and producers, and prescribe appropriate remedies.

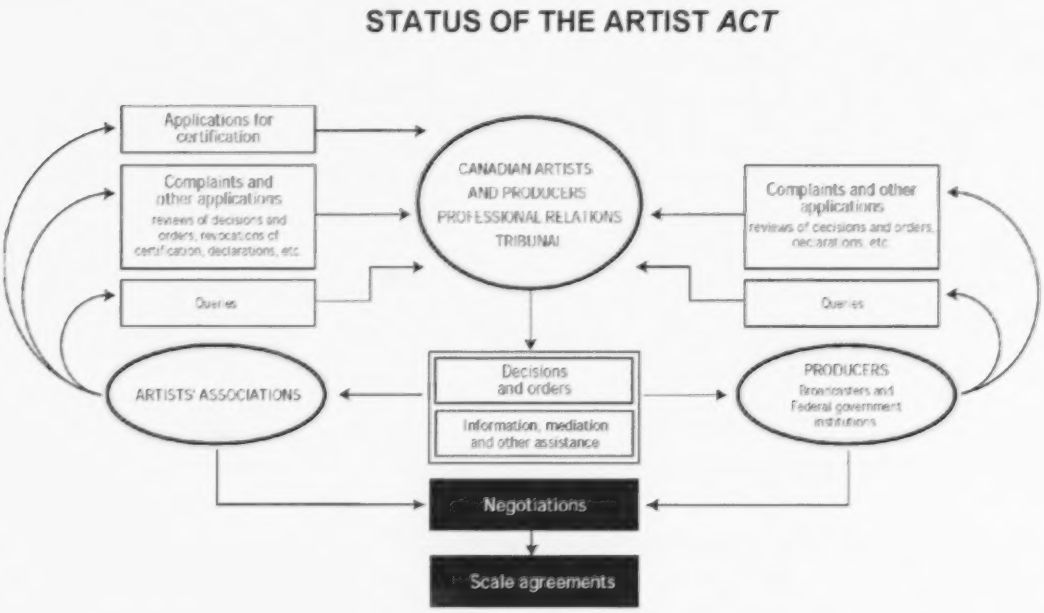
An artists' association certified under the *Status of the Artist Act* as a bargaining agent for a specific sector has the exclusive right to negotiate *scale agreements* with producers. A scale agreement specifies the minimum terms and conditions under which producers engage the services of, or commission a work from, a self-employed artist in a specified sector, as well as

other related matters. Twenty-four artists' associations have been certified as bargaining agents under the *Act*, representing 26 sectors of cultural activity.

The *Status of the Artist Act* and the Tribunal's regulations, decisions, and reports to Parliament and central agencies can be found on the Tribunal's Web site at www.capprt-tcrpap.gc.ca.

Figure 1 illustrates the Tribunal's responsibilities and the key processes under the *Status of the Artist Act*, Part II.

Figure 1. Tribunal Responsibilities and Key Processes



Under subsection 10(1) of the *Status of the Artist Act*, the Tribunal is composed of a Chairperson (who is also the chief executive officer), a Vice-chairperson, and not less than two or more than four other full-time or part-time members. Members are appointed by the Governor in Council. Currently, the position of the Chairperson of the Tribunal is vacant, and the Vice-Chairperson acts as the Chairperson. The Tribunal has three other members at present. Under subsection 13(2) of the *Act*, three members constitute a quorum for meetings or proceedings of the Tribunal. The Vice-chairperson and the other members are part-time appointees.

The Executive Director and General Counsel heads the Tribunal Secretariat and reports to the Chairperson. Ten staff members (when the Secretariat is fully staffed) carry out the functions of legal counsel, registrar, planning, research, communications, and administrative services. The Tribunal outsources some standard corporate services that are not required full-time, such as informatics and human resources. Figure 2 illustrates the Tribunal's organizational structure.

Organization Chart

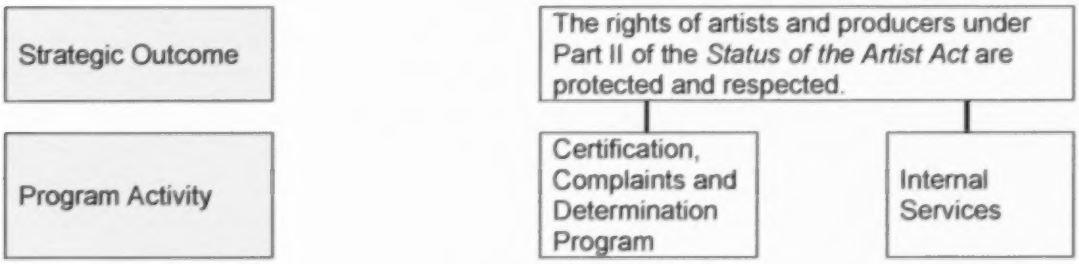
Services provided on contract or by other arrangements (Please see Section II, Financial Management and Comptrollership, for more detail)

The Tribunal administers the following legislation and associated regulations:

An Act respecting the status of the artist and professional relations between artists and producers in Canada (Short Title: *Status of the Artist Act)*	S.C. 1992, c.33, as amended
Status of the Artist Act Professional Category Regulations	SOR 99/191
Canadian Artists and Producers Professional Relations Tribunal Procedural Regulations	SOR/2003-343

Strategic Outcome and Program Activity Architecture (PAA)

The chart bellow illustrates the Tribunal's single strategic outcome program activities and the program activities that contribute to it.


Strategic Outcome
The rights of artists and producers under Part II of the *Status of the Artist Act* are protected and respected.
Program Activity
Certification, Complaints and Determination Program
Internal Services

Summary of Performance

2009–10 Financial Resources ($millions)

Planned Spending	Total Authorities	Actual Spending
2.0	2.1	1,1

2009–10 Human Resources (FTEs)

Planned	Actual	Difference
10	7	3

The Tribunal's spending and human resource levels are relatively stable, as its plans and priorities are generally stable from year to year and involve no major new initiatives. This reflects the quasi-judicial adjudicative mandate of the Tribunal, as set out in the *Status of the Artist Act*.

Strategic Outcome: The rights of artists and producers under Part II of the *Status of the Artist Act* are protected and respected.		
Performance Indicators	**Targets**	**2009–10 Performance**
Performance Indicators Cases are resolved in a fair and timely way, with natural justice and administrative fairness observed, Stakeholders have easy, timely access to information about the *Act* and about Tribunal decisions and activities: • Average number of calendar days between hearing and issue of reasons • Average time to process cases from application to issue of reason for decision • Cases are upheld on judicial review • Requests for mediation assistance result in complaints resolved and in agreements reached or renewed • Prompt response to requests for Information • Timely information bulletins • Stakeholder satisfaction	Targets • Average time between hearing and issue of reasons does not exceed 60 calendar days • Average time to process all cases from application to issue of reason for decision does not exceed 200 days • At least 75 percent of cases are upheld on judicial review • 75 percent of requests for complaints mediation assistance result in complaints resolved • 75 percent of requests for bargaining mediation assistance result in agreements reached or renewed • Information requests responded to within 2 working days • Information bulletins published within 60 days of decisions and other major events • Stakeholders are satisfied, based on ongoing informal survey	One decision rendered without need for hearing From application to completion – 9 days No applications for judicial review No requests for mediation 90 percent of inquiries responded to within 2 days Two Information Bulletins published Continuing informal survey of stakeholders suggests higher visibility of Tribunal needed

($ millions)

Program Activity	2008–09 Actual Spending ($millions)	2009–10[1]				Alignment to Government of Canada Outcome
		Main Estimates	Planned Spending	Total Authorities	Actual Spending	
Certification, Complaints and Determination Program		1.2	1.2	1.2	0.7	Vibrant Canadian Culture and Heritage
Internal Services		0.8	0.8	0.9	0.4	
Total		2.0	2.0	2.1	1.1	

Contribution of Priorities to Strategic Outcome(s)

Operational Priorities	Type	Status	Linkages to Strategic Outcome(s)
Deal with matters brought before Tribunal with high quality service	Ongoing	Met	The CAPPRT, like any administrative tribunal, has a duty to ensure that cases are resolved fairly and in a timely way, fully respecting the requirements of natural justice and administrative fairness.
Fully inform and assist stakeholders	Ongoing	Mostly met	Through its outreach and communication activities, the Tribunal builds stakeholder awareness of the *Status of the Artist Act* and the rights and responsibilities that flow from it.

Management Priorities	Type	Status	Linkages to Strategic Outcome(s)
Improve management practices	Ongoing	Met	Like any government agency, the Tribunal must continually strive to modernize and improve its management practices, in order to support the Tribunal in its decision-making and administrative capacities.

[1] Commencing in the 2009-10 Estimates cycle, the resources for Program Activity: Internal Service is displayed separately from other program activities; they are no longer distributed among the remaining program activities, as was the case in previous Main Estimates. This has affected the comparability of spending and FTE information by Program Activity between fiscal years.

Risk Analysis

The nature of the Tribunal's mandate and its business environment makes the organization relatively risk averse. The same observation could be made of any quasi-judicial organization. Accordingly, the Tribunal has in place numerous management strategies to mitigate potential risks.

Like any court or administrative tribunal, the CAPPRT must be prepared to deal with highs and lows of case volume. The Tribunal's services must be available to artists and producers as and when the need arises. The Tribunal has certified artists' associations to represent most sectors under its jurisdiction, so its certification work is relatively predictable. Complaints under the *Act* and references from arbitrators are less predictable and can arise at any time.

The economic crisis has affected the arts and culture sector, and the full impact remains to be seen. One important area of the Tribunal's jurisdiction, broadcasting, has been in considerable turmoil. If economic problems result in parties having difficulty meeting their obligations under the *Act* or reaching agreements under it, there may be an increase in demand for the Tribunal's services. Even certification work could increase, if unstable economic circumstances give rise to challenges to representation.

The Tribunal has traditionally been able to manage the unpredictability of caseloads by judicious planning and budgeting within its existing appropriation levels for both human and financial resources. In years where its total appropriations have not been used, it has returned funds to the Consolidated Revenue Fund.

Expenditure Profile

The statutory mandate of the Tribunal means that resources are relatively steady from year to year. Planned and authorized spending increased somewhat due to increases in salaries and benefits pursuant to collective agreements signed by Treasury Board that impacted on the salaries of Tribunal employees. In addition, like all government departments, the Tribunal's operating budget carry forward (5 percent of base budget) from 2008-2009 was added to its authorities. The Tribunal plans for likely maximum use of its services but it has no control over its actual case load and level of activity. The *Act* allows parties to bring cases to the Tribunal but nothing guarantees how many will do so and how often. In short, the Tribunal's caseload is not predictable. The Tribunal's budget increased due to salary settlements ($47K) and carry forward ($90K). Actual expenditures rose by $77K or 8 percent from the previous year, due primarily to salary increases and the increased number of Members needed for the Tribunal to assure quorum.

Like all government departments, the Tribunal returns its unused resources to the Consolidated Revenue Fund.

Voted and Statutory Items

($ millions)

Vote # or Statutory Item (S)	Truncated Vote or Statutory Wording	2007–08 Actual Spending ($millions)	2008–09 Actual Spending ($millions)	2009–10 Main Estimates ($millions)	2009–10 Actual Spending ($millions)
20	Operating expenditures	1.0	0.9	1.8	1.0
(S)	Contributions to employee benefit plans	0.1	0.1	0.2	0.1
	Total	1.1	2.0	2.0	1.1

SECTION II: ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

Strategic Outcome

The Tribunal seeks to achieve the following strategic outcome:

> The rights of artists and producers under Part II of the *Status of the Artist Act* are protected and respected.

Part II of the *Act*, and the collective bargaining regime set up under it, are intended to encourage constructive professional relations between artists and producers in federal jurisdiction. This is the sole strategic outcome under the Tribunal's Program Activity Architecture approved by Treasury Board.

During fiscal year 2009-2010, the Tribunal pursued three priorities in order to achieve this strategic outcome. It continued to focus on timeliness and fairness in dealing with requests under the legislation. It continued its efforts to ensure that stakeholders have timely information about the *Act* and their rights and responsibilities under it, and about Tribunal decisions and activities. And it continued to improve its management practices, focusing on implementing the *Public Service Modernization Act* and the various initiatives of Treasury Board and other central agencies.

The performance measurement framework for these priorities matches that presented in the Tribunal's *Report on Plans and Priorities* for 2009-10. The performance results are reported below the following table, which summarizes them.

Program Activity by Strategic Outcome

Program Activity: Certification, Complaints, and Determination					
2009-2010 Financial Resources ($millions)			2009-2010 Human Resources (FTEs)		
Planned Spending	**Total Authorities**	**Actual Spending**	**Planned**	**Actual**	**Difference**
1.2	1.2	0.7	8	5	3

Expected Results	Performance Indicators	Targets	Performance Status	Performance Summary
Fair and timely resolution of cases	Average time to issue reasons for a decision after the hearing in all cases	Maximum of 60 calendar days	N/A for fiscal 2009-2010	No oral hearings were held.
	Average time to process all cases (from date of receipt of completed application to date of decision)	Maximum of 200 calendar days	Met	The Tribunal issued its decision nine days after application
	Percentage of Tribunal decisions upheld under judicial review	More than 75 percent	N/A for fiscal 2009-2010	No applications for judicial review in 2009-2010.
Availability to stakeholders of information about the *Act* and the Tribunal	Quality and timeliness of information	Bulletins issued within 60 days of major developments (e.g., Tribunal decisions).	2 Bulletins issued within timelines	Bulletins provided timely information on developments such as collective bargaining in previous FY and attainment of quorum in appointments
		Responses to inquiries within two working days.	Met	90 percent of responses to inquiries were within target
		Stakeholders are satisfied (as determined by informal stakeholder consultations)	Mostly met	Informal consultations indicate Tribunal needs more visibility
	Quality of the Tribunal's Web site	The Web site contains timely, accurate and helpful information, explains clearly how to do business with the Tribunal, and meets Government On-Line standards.	Met	The Web site is regularly updated and continuously improved to meet Common Look and Feel (CLF) 2.0 Standards and improve readability and relevance. Scale agreements and summaries are available on the Web site for the first time.
	Direct contacts with stakeholders		Met	Tribunal staff attended 5 industry conferences, and met with 4 artists' associations, 3

Expected Results	Performance Indicators	Targets	Performance Status	Performance Summary
				producers, and one producers' association.
Improved management practices	Management Accountability Framework	Required elements of MAF are in place	Met	
	Human Resources Plan	Plan updated twice per year	Met	
	Internal Policies Suite	Policies updated as needed and in line with government's objectives and Treasury Board policies	Met	

Performance Analysis

Program Activity: Certification, Complaints, and Determination

Priority 1: Deal with matters brought before the Tribunal with high quality service

High quality in processing of cases includes the work of staff, in preparing cases and providing legal advice, and the work of the Tribunal in issuing decisions.

The Tribunal was without quorum to hear cases for the first half of 2009-2010. The level of case activity in the fiscal year was lower than expected. Certification cases have decreased over the years since the passage of the *Status of the Artist Act*, with most sectors of artistic activity now represented by certified artists' associations. Increasingly, inquiries and cases brought before the Tribunal concern issues that arise in collective bargaining.

Four certifications of artists' associations as sectoral bargaining agents came up for renewal; all four were renewed. The Tribunal issued one final decision. At year's end, two cases were pending. Details on cases are presented in the Tribunal's annual report and its *Information Bulletins*, all available on the Tribunal's Web site at www.capprt-tcrpap.gc.ca.

The Tribunal's ability to serve its stakeholders was affected for half of the fiscal year by the fact that it did not have enough members to ensure quorum. The Tribunal was without quorum, and consequently unable to hear cases, from April 1 to September 30, 2009.

As set out in the 2009-2010 *Report on Plans and Priorities*, the Tribunal's performance measurement framework looks at timeliness and fairness. These two factors are interrelated but distinct, and require different performance indicators and measurements.

For timeliness, we use two indicators: the time taken to issue reasons for a decision after a hearing, and the total time taken to process a case, from the date an application is received until the date of the decision. Targets and performance information for these indicators are shown in the table above.

The first indicator is not applicable for the past fiscal year, as the Tribunal did not render any decisions requiring hearings. The second indicator is based on time elapsed from the date of receipt of a completed application to the date of the final decision in the case. As shown in the table, the Tribunal met its target.

In the Tribunal's internal monitoring and evaluation, performance information is analyzed over multiple years, in order to identify trends.

The Tribunal uses the term "fairness" broadly, to encompass all its responsibilities as a quasi-judicial tribunal, such as impartiality, accessibility, integrity, and confidentiality.

We use as an indicator of fairness the percentage of Tribunal decisions upheld on judicial review. The Federal Court may review a Tribunal decision in the following circumstances:

- if the Tribunal acted without jurisdiction or beyond its jurisdiction, or refused to exercise its jurisdiction;
- if it failed to observe a principle of natural justice, procedural fairness or other procedure that it was required by law to observe; or
- if it acted, or failed to act, by reason of fraud or perjured evidence.

The indicator is not perfect, because parties may be dissatisfied with Tribunal decisions but not seek judicial review, for any number of reasons, including lack of resources. Nonetheless, the Federal Court acts as the arbiter of fairness of federal quasi-judicial tribunals, so this is an important indicator. We have set as a target that more than 75 percent of our cases are upheld on judicial review.

There were no applications for judicial review in 2009-2010. As with timeliness, we collect this information yearly but analyze it over longer periods. To date, only three of the Tribunal's 86 interim and final decisions have been challenged in this manner. Two requests for judicial review were dismissed by the Federal Court of Appeal, one in 1998-1999 and one in 2004-2005. The third request was withdrawn.

An important outcome of fair Tribunal decisions is the development of a solid body of precedents. These can be used to help resolve future cases.

The Tribunal is committed to maintaining and strengthening its research function to support the work of the Tribunal. This is a matter of importance for the Tribunal: it deals continually with new issues, and its jurisprudence is largely innovative, requiring a strong research capacity to ensure that decisions are fair and reflect the realities of the stakeholder community. Tribunal staff continued developing research resources over the course of the fiscal year, meeting with producers and artists' associations and attending industry conferences, and facilitated information and training sessions for Tribunal members on developments in broadcasting and labour relations. The Tribunal's case management database was further developed and refined over the course of the year.

Priority 2: Fully inform and assist stakeholders

The Tribunal's second priority is to fully inform and assist the artists, artists' associations, and producers that make up its stakeholder base. The Tribunal has a duty to ensure that artists, artists' associations and producers are fully aware of their rights and responsibilities under the *Status of the Artist Act*. For parties to benefit from the *Act*, for collective bargaining under the *Act* to take place and for the long-term objectives of the *Act* to be realized, the parties must fully understand the legislation.

One way that the Tribunal does this is through timely responses to inquiries. The Tribunal receives a wide variety of questions from stakeholders, dealing with subjects like jurisdiction, specifics of the various cultural industries, and how to use the *Act*. Tribunal staff members respond to these questions quickly and thoroughly, always inviting further comment or question. The Tribunal's target is to respond within 2 working days of the receipt of the inquiry. The Tribunal exceeded its target in 90 percent of its inquiry responses.

The Tribunal is committed to facilitating collective bargaining by making research tools and resources available to artists associations and producers. The Tribunal works in an informal partnership with Human Resources and Skills Development Canada (HRSDC) to make scale agreements readily available to stakeholders for research purposes. HRSDC runs a database known as Negotech that digitally stores collective agreements filed with the Minister of Labour. The Tribunal's website provides hyperlinks to scale agreements on Negotech. For many of the scale agreements, the Tribunal provides summaries of salient features such as provisions dealing with new media.

With respect to more general information needs about the *Act* and the Tribunal's services and activities, the Tribunal uses information bulletins, regularly-updated information on its Web site, and information sessions for stakeholders. Follow-up with stakeholders has shown that these are well received and considered useful.

Large-scale information sessions for stakeholders have in recent years given way to more tailored and customized information. The Tribunal's stakeholders have different, often quite specific, needs for information. More focused personalized information and small group or individual meetings are often a more effective way of addressing those needs. The Tribunal emphasized these more direct approaches to stakeholders, including participation in industry conferences that bring stakeholders together and allow multiple meetings and information exchanges, maximizing the effective use of Tribunal staff time. In 2009-2010, Tribunal staff used informal means to increase the knowledge and awareness of the *Act* and the Tribunal among a cross-section of stakeholders from the artists' and producers' communities, including 4 artists' associations, 3 producers and 1 producers' association. Both approaches, formal presentations and informal meetings, are useful, and the Tribunal will continue to use them both, as appropriate.

The Tribunal issued two information bulletins in 2009-2010, covering information such as the new availability of scale agreements on the Tribunal's website and changes in the Tribunal's membership, allowing it to ensure quorum.

The Tribunal continued revising its website to make it more helpful and accessible, and made major revisions to the website, adding links to scale agreements and summaries of agreements. The website received 30,663 hits from April 1, 2009, to March 31, 2010.

Research to support the Tribunal's work with artists' associations and producers continued to be important in 2009-2010, especially in view of current developments in broadcasting and new media. Broadcasting is one of the principal areas of the Tribunal's jurisdiction, and the challenges of transformations in the broadcasting industry – mergers, changes of ownership, new technologies, and the weakening of traditional business models – for artists' associations and broadcasters require new efforts from the Tribunal to facilitate negotiation under the *Act*. Research staff monitored and analyzed developments in broadcasting and new media throughout the fiscal year, tracking CRTC and Parliamentary initiatives and attending industry conferences.

Priority 3: Improve management practices

As in previous years, the Tribunal used outsourcing and cost-saving agreements for many services not required on a full-time basis. It contracted with the Department of Canadian Heritage for human resources services, with Industry Canada for security and mail services, and with the Public Service Labour Relations Board for informatics support. It has arrangements with two other federal labour boards to use their hearing rooms and library services. It also contracts for the services of a financial analyst.

The Tribunal Secretariat continued to maximize its human resources, selecting multi-skilled, flexible staff capable of handling a wide variety of responsibilities. This matches the economic efficiency of the Tribunal itself: Tribunal members are part-time appointees, called on and paid only as needed, and bilingual, which facilitates scheduling of hearings. The Tribunal continued to provide accommodation and administrative and financial services to Environmental Protection Review Canada, thereby lowering the overall costs to the government.

To improve its operational efficiency and its capability to measure performance, the Tribunal continued to refine its case management database over the course of 2009-2010.

The Tribunal continued to develop its management practices in 2009-2010, working on implementing government-wide initiatives and continuing work on those initiatives already implemented, in a cluster group with three other small quasi-judicial agencies, the Copyright Board, the Registry of the Competition Tribunal, and the Transportation Appeal Tribunal. The Tribunal also worked with other networks such as the Small Agency Transition Support Team for expertise related to human resources issues (such as the Policy on Learning, Training and Development), and was an active participant in the Micro and Small Agency Labour Management Consultation Committee to ensure adherence to the *Public Service Labour Relations Act*.

The Tribunal continued to work with and update its Human Resources Plan. It uses this plan to forecast its staffing needs, deal strategically with staffing, retention and succession issues, and mobilize and sustain the energies and talents of its members and employees, enabling them to contribute to the achievement of organizational goals.

The Tribunal has internal policies to promote excellence in performance, accountability, and workplace well-being, and a code of values and ethics as well as policies on harassment and the internal disclosure of wrongdoing. To ensure that these policies remain current and relevant, the Tribunal further refined its policy review and renewal cycle, including continued study and development of evaluation strategies and performance measurement tools.

The Tribunal's human resources and business planning are integrated, and it uses a Strategic Human Resources Plan and a Staffing Management Accountability Framework. In 2009-2010, it continued to monitor staffing actions in relation to its staffing strategies and plans, although the small number of positions and of staffing actions hardly justifies the term "statistics" and makes identification of trends or tendencies difficult.

Based on assistance from the Treasury Board Secretariat in the assessment of the Tribunal's compliance with the Management Accountability Framework (MAF) in 2007-2008, the Tribunal put considerable effort in 2009-2010 into updating the Tribunal's risk profile and better aligning the language and indicators between the *Report on Plans and Priorities* and *Departmental Performance Report*. It also continued to review its information practices, to ensure compliance with the *Access to Information Act* and the *Privacy Act*.

Other indicators of progress

The *Status of the Artist Act* is a specialized piece of legislation, of quite limited application to a very specific and narrow area of economic activity. As a result, indicators of effectiveness are frequently difficult to assess because of the problem of small numbers. The Tribunal uses certain indicators over multi-year periods to monitor the achievement of constructive professional relations in the cultural sector.

One such indicator is the proportion of complaints that are resolved without the necessity of a hearing by the Tribunal. Joint resolution of issues fosters cooperation between artists and producers, and saves time and money for the parties and the Tribunal by reducing the need for costly hearings. Accordingly, the Tribunal encourages parties to resolve as many issues as possible jointly before proceeding to a hearing, and the parties frequently find that they can resolve all the issues jointly. The Tribunal Secretariat provides assistance, where appropriate, through investigation and mediation, and in 2009-2010 emphasized augmenting staff's knowledge and skills in the issues facing the arts sector, so that the staff members are better able to meet the needs of stakeholders.

The table below shows the progress against this indicator. It should be noted that, as with many performance indicators, this is an approximate measure. Parties will withdraw complaints for various reasons. For example, sometimes the filing of a complaint will in itself bring the parties together to resolve the issue without any intervention of the Tribunal.

The negotiation of scale agreements is another indicator of constructive professional relations. Again, this is an approximate measure. The Tribunal can facilitate negotiations by granting certification, providing information about the *Act*'s provisions for negotiations, and dealing with complaints of failure to bargain in good faith. It has little influence, however, over whether the parties actually pursue negotiations after certification, or over the results of such negotiations, unless one of the parties brings the matter before the Tribunal. Moreover, because there is no

provision for first contract arbitration in the legislation, parties may be involved in bargaining for years without ever concluding an agreement.

With respect to the negotiation of scale agreements, a lot has been accomplished, if less than hoped for, as shown in the table below. Thirteen of the 24 certified artists' associations (54 percent) have negotiated a scale agreement under the *Act*, compared to the expected target of 19 (80 percent). (Note that this indicator has been adjusted from what was used in previous years, where we looked at first agreements signed within 5 years of certification. That indicator, on review over time, was found not to be representative.)

Constructive professional relations

Indicator	*Target*	*Results since SAA was passed*
Percentage of complaints resolved without a hearing	At least 50 percent of all complaints are resolved without a hearing.	50 percent were resolved without a hearing.
Proportion of certified artists' associations that have concluded scale agreements under the *Act*.	A minimum of 80 percent of certified artists' associations have concluded at least one new scale agreement under the *Act*.	54 percent have negotiated at least one scale agreement.

At the end of fiscal year 2009-2010, 16 certified artists' associations (67 percent) had at least one outstanding notice to bargain a new scale agreement.

Various amendments recommended in the 2002 evaluation of the *Act*[2], such as requiring arbitration in specific situations for the settlement of first agreements, would facilitate the goal of successful negotiations following certification.

Lessons Learned

The Tribunal Secretariat noted again the importance of being able to ensure that it has quorum to hear cases. The absence of quorum has a negative impact on the Tribunal's relations with its stakeholders. It must increase its outreach efforts when it is unable to hear cases. The Tribunal's credibility with its stakeholders is significantly advanced with balanced representation from the cultural industries and the labour relations community.

Benefits for Canadians

This program activity contributes to harmonious professional relations in the cultural sector, which in turn contributes to better conditions of engagement for artists and a more stable, predictable workforce for producers. This is a critical contribution to a vibrant Canadian culture, the economic benefits of which have been amply demonstrated by recent research.

[2] Available on the Tribunal's website at http://www.capprt-tcrpap.gc.ca/cic/site/capprt-tcrpap.nsf/eng/tn00164.html

Program Activity: Internal Services

Program Activity: Internal Services					
2009–10 Financial Resources ($ millions)			2009–10 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
0.8	0.9	0.4	2	2	0

Internal Services are activities and resources that support the needs of the Tribunal's operating program and other corporate obligations. They include administrative, human resources, financial, information management services, and information technology services.

The Tribunal has internal service expectations and monitors overall service performance of its internal services. The Tribunal has a sound results-oriented framework utilizing the Management Accountability Framework (MAF) and a quality assurance framework that will continue to ensure that services are conducted in a timely and cost effective manner.

The Tribunal's internal services have had to be carefully designed to take into account the extremely small size of the organization. The Tribunal outsources some corporate services that are not required on a full time basis. For example, it contracts with Canadian Heritage for human resources services, and with the Public Service Labour Relations Board and Industry Canada for informatics, security, and mail services. It has arrangements with two other federal labour boards to use their hearing rooms and library services.

SECTION III: SUPPLEMENTARY INFORMATION

Financial Highlights

($ millions)

Condensed Statement of Operations At end of Fiscal Year (March 31, 2010)	**% Change**	**2008–09**	**2009–10**
ASSETS	(16.5)	.079	.066
Total Assets	(16.5)	.079	.066
TOTAL		.079	.066
LIABILITIES	8.6	.210	.228
Total Liabilities	8.6	.210	.228
EQUITY	(23.7)	(.131)	(.162)
Total Equity	(23.7)	(.131)	(.162)
TOTAL		.079	.066

($ millions)

Condensed Statement of Operations At end of Fiscal Year (March 31, 2010)	**% Change**	**2008–09**	**2009–10**
EXPENSES	4.1	1.559	1.623
Total Expenses	4.1	1.559	1.623
REVENUES		-	-
Total Revenues		-	-
NET COST OF OPERATIONS	4.1	1.599	1.623

Statement of Operations

The Tribunal's activities have remained relatively stable through the two year period ending March 31, 2010. The cost of operations has risen by $ 64,000 from the previous year. This increase is due primarily to changes in three expenditure categories:

- salaries and employee benefits have increased by $111 thousand,
- professional services have decreased by $30 thousand, and
- amortization expenses have decreased by $8 thousand.

The most significant change in the cost of operations is in salaries and employee benefits. The increase in costs is the result of two factors - the Tribunal reached quorum with the appointment of two part-time members in 2009-10 and the employees received increases as a result of collective agreements settled in 2009-10. These two factors and the related employee benefits accounted for almost all of the $111 thousand increase in salaries and employee benefits.

The Tribunal achieved savings by selecting another government provider for its information services and eliminating temporary help costs. ATIP training was provided in 2008-09 and did not have to be repeated in 2009-10.

The Commission's asset platform is almost fully amortized and as a result, the annual amortization costs are diminishing.

Statement of Financial Position

The absence of significant change in the overall Statement of Financial Position is a further reflection of the stable operating environment of the Tribunal.

The most significant changes on the Statement of Financial Position are:

- a reduction in accounts receivable, primarily the employee benefits recoverable from Treasury Board,
- prepaid expenses as the Tribunal realized cost reductions by paying in advance,
- accounts payable decreased as the Tribunal settled more of its accounts prior to year-end, and
- severance benefits increased in part due to the increased salary base used in the determination of the benefits payable.

Financial Statements

http://www.capprt-tcrpap.gc.ca/eic/site/capprt-tcrpap.nsf/eng/tn00552.html

SECTION IV: CONTACT INFORMATION

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